

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION**

**DANIEL RAPPOSELLI,**

**Plaintiff,**

**v.**

**THE KROGER CO.,**

**Defendant.**

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Civil Action No: CV422-196**

**NOTICE OF REMOVAL OF CIVIL ACTION**

COMES NOW **THE KROGER CO.** (hereinafter “Defendant Kroger”) and files this Notice of Removal pursuant to 28 U.S.C. §1332(a) and 28 U.S.C. §1446, and respectfully shows the Court the following:

**STATEMENT OF REMOVAL**

1. On July 12, 2022, Plaintiff Daniel Rapposelli filed his complaint against Defendant Kroger in the State Court of Chatham County, Georgia, Civil Action No. STCV22-01167 seeking recovery for personal injuries allegedly arising from a slip and fall on Defendant Kroger’s premises.

2. Pursuant to 28 U.S.C. § 1446(a), Defendant Kroger files this Notice of Removal “containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon...” the defendant, which are attached to this Notice as Exhibit “A.”

**DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332(a)**

3. This action is one over which the Court has original jurisdiction under the provisions of 28 U.S.C. § 1332 and which may be removed to this Court pursuant to the provisions

of 28 U.S.C. § 1441 because it is a civil action wherein the matter in controversy exceeds the sum or value of \$75,000 exclusive of interests and costs and is between citizens of different states.

4. Complete diversity exists between the parties because:

- a. Plaintiff Daniel Rapposelli is a natural person domiciled in the State of Georgia;
- b. Defendant Kroger is a business incorporated in and having its principal place of business in the State of Ohio. Defendant Kroger is not now, nor was it at the time of initiation of the Complaint, incorporated or having its principal place of business in Georgia; and
- c. No other parties have been joined or served in this Action.

5. Under 28 U.S.C. § 1332(c)(1), in cases pursuant to § 1441(a), “a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State where it has its principal place of business. . . .” 28 U.S.C. § 1332(c)(1).

6. There is diversity of citizenship among all parties.

7. On June 21, 2021, prior to filing suit, Plaintiff’s counsel demanded \$225,000 to compensate Plaintiff Daniel Rapposelli for his alleged injuries. Accordingly, Defendant Kroger avers in good faith that the amount in controversy in this matter exceeds \$75,000.00.

8. The requisite elements of jurisdiction have been satisfied and diversity of the parties exists which entitles Defendant Kroger to remove this action to the United States District Court for the Southern District of Georgia, Savannah Division, pursuant to 28 U.S.C. §§ 1332 and 1446.

### **REMOVAL PROCEDURES**

9. Defendant Kroger was served with the Summons and Complaint in this case through its registered agent on July 20, 2022.

10. Removal of this action is timely under 28 U.S.C. § 1446(b) and Federal Rule of Civil Procedure 6(a) because this Notice of Removal is being filed within thirty days of service on the defendant of the initial pleadings setting forth the claim for relief upon which such action is based.

11. Removal is properly made to the United States District Court for the Southern District of Georgia under 28 U.S.C. § 1441(a) because Chatham County, where the State Court Action is currently pending, is within the Savannah Division of the United States District Court for the Southern District of Georgia.

12. Kroger will file written notice of the filing of this Notice of Removal with the Clerk of the State Court of Chatham County, Georgia, attached hereto as Exhibit “B,” and will serve same on Plaintiff Daniel Rapposelli pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, by this Notice of Removal, Kroger hereby removes this action from the State Court of Chatham County, Georgia, and respectfully requests that this action proceed as properly removed to this Court.

Respectfully submitted, this 17<sup>th</sup> day of August, 2022.

**LUEDER, LARKIN & HUNTER, LLC**

By: /s/ BEVERLY G. O’HEARN

**BEVERLY G. O’HEARN**

Georgia Bar No. 287650

*Attorneys for The Kroger Co.*

7 E. Congress Street, Suite 712  
Savannah GA 31401  
(912) 712-2740 (phone and fax)  
[bohearn@luederlaw.com](mailto:bohearn@luederlaw.com)